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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2129 OF 2007

S.B.I. Exit Optees ... Petitioner

Versus

Union of India and Ors. ... Respondents

Mr. Arun Sathe, Sr. Counsel with Mr.Mandar M. Vaidya and Mr.Punjabrao Naik for Petitioner.

Mr. B.M. Chatterje with Mrs. P.P. Bhosale for Respondent Nos. 2 to 5.

Mr.Harihar Bhave for R. No. 1.

CORAM: F.I. REBELLO &
J.P. DEVADHAR, JJ.
DATED: OCTOBER 15, 2007

P.C.

. The Petitioner approached this court on the ground that the respondent No. 1 had made deductions from the amount received under the V.R.S. Scheme which will be in contravention of Section 10(10C) as also Section 89 of the Income Tax Act. In so far as those provisions are concerned, the learned Division Bench of this court in CIT Vs.Nagesh Devidas Kulkarni,(2007) 291 ITR 407 (Bom) has taken a view that under section 10(10C) it is restricted to Rs. 5 lacs. and that the benefits are also available under Section 89 of the Act for amount beyond Rs. 5 lacs.

. It was pointed out to us during the course of arguments that to avail of the benefit under section 10(10C) there has to be compliance of requirement of Rule 2BA of the Act which reads as under :

> "The vacancy caused by the voluntary retirement (or voluntary separation) is not to be filled up."

. The relevant provisions of Clause 14 of the Staff Exit scheme reads as under :

> "Vacancies : Inasmuch as the Exit option is aimed at improving the level of morale in the Bank, and not at rightsizing, the Bank will have the discretion to fill up the vacancies caused by release of officers under the Exit Option."

. Considering the above, if the Petitioners are aggrieved by the said clause, or the rule, it will be open to them to independently pursue whatever remedy they may have at law.

. With the above observations, Petition disposed of.

(J.P. DEVADHAR, J.) **(F.I.REBELLO, J.)**